



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

David Ward, Location Manager
Gerdau Metals Recycling
david.ward1@gerdau.com

Re: Finding of Violation
Gerdau Metals Recycling
St. Paul, Minnesota

Dear Mr. Ward:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Gerdau Metals Recycling (Gerdau, or you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you have violated the Clean Air Act (CAA), 42 U.S.C. §§ 7401 – 7671q, specifically the regulations for the Protection of Stratospheric Ozone at 40 C.F.R. Part 82, Subpart F at your St. Paul, Minnesota facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Natalie Schulz. You may call her at (312) 886-2776 or email her at schulz.natalie@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Brian Dickens
Chief, Air Enforcement and Compliance Assurance Section (MN/OH)

cc: Cory Boeck, Manager
Land and Air Compliance Section
Industrial Division
Minnesota Pollution Control Agency
Cory.Boeck@state.mn.us

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Gerdau Metals Recycling
St. Paul, Minnesota**

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

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FINDING OF VIOLATION

EPA-5-21-COE-02

FINDING OF VIOLATION

The U.S. Environmental Protection Agency finds that Gerdau Metals Recycling (Gerdau, or you) is violating Section 608 of the Clean Air Act, 42 U.S.C. § 7671g. Specifically, Gerdau is violating EPA regulations for the Protection of Stratospheric Ozone, Recycling and Emissions Reduction at 40 C.F.R. Part 82, Subpart F, as follows:

Regulatory Authority

1. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, applicable to recycling and emissions reductions of ozone depleting substances. As specified at 40 C.F.R. § 82.150(a), the purpose of the regulations is to reduce emissions of class I and class II ozone-depleting substances and their non-exempt substitutes to the lowest achievable level during the service, maintenance, repair, and disposal of appliances.
2. Under 40 C.F.R. § 82.152, class I refers to an ozone-depleting substance that is listed in 40 C.F.R., Part 82, Subpart A, Appendix A.
3. Under 40 C.F.R. § 82.152, class II refers to an ozone-depleting substance that is listed in 40 C.F.R., Part 82, Subpart A, Appendix B.
4. Under 40 C.F.R. § 82.152, an appliance is any device which contains and uses a class I or class II substance or substitute as a refrigerant and which is used for household or commercial purposes, including any air conditioner, motor vehicle air conditioner (MVAC), refrigerator, chiller, or freezer. For a system with multiple circuits, each independent circuit is considered a separate appliance.
5. Under 40 C.F.R. § 82.152, a small appliance is any appliance that is fully manufactured, charged, and hermetically sealed in a factory with 5 pounds or less of refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners, portable air conditioners, and packaged terminal air heat pumps), dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.
6. Under 40 C.F.R. § 82.154(a), no person maintaining, servicing, repairing, or disposing of an appliance may knowingly vent or otherwise release into the environment any refrigerant or substitute from such appliances, with certain exemptions not relevant to this matter.

7. Under 40 C.F.R. § 82.155(b), the final processor—i.e., any person who takes the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, MVAC or MVAC-like appliance—must either:
 - (1) Recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.155(a), which requires that persons recovering refrigerant from a small appliance, MVAC, or MVAC-like appliance must evacuate refrigerant to the levels in § 82.156(b) through (d); or
 - (2) Verify using a signed statement or a contract that all refrigerant that had not leaked previously has been recovered from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a). If using a signed statement, it must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered. If using a signed contract between the supplier and the final processor, it must either state that the supplier will recover any remaining refrigerant from the appliance or shipment of appliances in accordance with 40 C.F.R. § 82.155(a) prior to delivery or verify that the refrigerant had been properly recovered prior to receipt by the supplier.¹
8. Under 40 C.F.R. § 82.155(b)(2)(ii), the final processor must notify suppliers of appliances that refrigerant must be properly recovered in accordance with 40 C.F.R. § 82.155(a) before delivery of the items to the facility. The form of notification may be signs, letters to suppliers, or other equivalent means.
9. Under 40 C.F.R. § 82.155(b)(2)(iii), if all refrigerant has leaked out of the appliance, the final processor must obtain a signed statement that all the refrigerant in the appliance had leaked out prior to delivery to the final processor and recovery is not possible. “Leaked out” in this context means those situations in which the refrigerant has escaped because of system failures, accidents or other unavoidable occurrences not caused by a person’s negligence or deliberate acts such as cutting refrigerant lines.
10. Under 40 C.F.R. § 82.156(b), persons must recover refrigerant, using a recovery and/or recycling machine certified pursuant to 40 C.F.R. § 82.158, before opening a small appliance or when disposing of a small appliance, according to specified conditions.

Factual Background

11. Gerdau Metals Recycling owns and/or operates the scrap metal recycling facility at 780 Barge Channel Road, St. Paul, Minnesota 55303 (the Facility).
12. The Facility is subject to the requirements at 40 C.F.R. § Part 82, Subpart F, because the Facility disposes of appliances, including small appliances and MVACs, that contain class I, class II, or non-exempt substitute refrigerants.

¹ In the Preamble to the original rule and in revisions to 40 C.F.R. Part 82 Subpart F, EPA described under what circumstances a contract was appropriate and when a disposer should use a signed statement: “EPA notes here that a contract is appropriate for businesses to streamline transactions in cases where they maintain long-standing business relationships. A contract would be entered into prior to the transaction, such as during the set-up of a customer account, not simultaneously with the transaction. A signed statement is more appropriate for one-off transactions between the supplier and the final processor.” 81 Fed. Reg. 82,272, 82309 (Nov. 18, 2016).

13. EPA inspected the Facility on May 1, 2019.
14. At the time of the inspection, EPA inspectors observed small appliances and cars containing MVACs at the Facility.
15. At the time of the inspection, EPA inspectors observed refrigerant recovery equipment for cars.
16. At the time of the inspection, EPA inspectors did not observe refrigerant recovery equipment for small appliances, and Gerdau representatives stated that they do not recover refrigerant from small appliances.
17. At the time of the inspection, EPA inspectors observed a small appliance with intact refrigerant lines.
18. At the time of the inspection, Gerdau representatives could not produce verification statements from customers asserting that the small appliances or MVACs had the refrigerant properly recovered prior to delivery to the Facility.

Violations

19. By failing to recover refrigerants from small appliances in accordance with 40 C.F.R. § 82.155(a), and by failing to verify using a signed statement or a contract that refrigerant that had not leaked previously had been recovered, Gerdau was in violation of 40 C.F.R. § 82.155(b) at the Facility.

Environmental Impact of Violations

20. These violations have caused or can cause excess emissions of ozone depleting substances, including chlorofluorocarbons (CFCs) and hydrofluorocarbons (HCFCs)
21. CFCs and HCFCs have been shown to contribute to the depletion of the stratospheric ozone layer, which protects life on Earth from the sun's harmful ultraviolet radiation (UV).
22. UV radiation has been associated with adverse health effects, including skin cancer, cataracts, and immune suppression. UV radiation may also have adverse effects on plant life and aquatic ecosystems.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division